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# Congress of the United States

## House of Representatives

Washington, DC 20515

**COMMITTEE ON  
ENERGY AND COMMERCE**

OVERSIGHT AND INVESTIGATIONS – CHAIR  
ENVIRONMENT AND CLIMATE CHANGE  
ENERGY

**COMMITTEE ON  
NATURAL RESOURCES**

NATIONAL PARKS, FORESTS, AND PUBLIC LANDS  
ENERGY AND MINERAL RESOURCES

March 11, 2022

Mr. Michael Regan, Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave. N.W.  
Washington, DC 20004

Dear Administrator Regan:

Thank you for the work your agency has done to promote environmental justice and protect communities across the country.

I am writing to express my concern regarding the implementation of the federal Clean Air Act (CAA) by the U.S. Environmental Protection Agency (EPA) and many of the state and local agencies delegated to implement the law. Specifically, I am concerned about the troubling practice of certain industries to slip facility improvements through the CAA regulatory process as a series of “minor” modifications, resulting in less scrutiny, expense, and pollution reduction than if they were deemed “major” modifications.

There are instances of companies in virtually every state in the country that have adopted this practice. The Suncor Energy refinery located in Commerce City, Colorado, for example, is deemed a major air emitter under the CAA but has been modified dozens of times over the years through a series of modifications that were deemed minor. Many of these modifications should have been considered major, either on their own or collectively with other related modifications, and therefore would have been subject under the CAA to more stringent pollution control requirements. I am especially concerned about the Suncor refinery because of the pollution to which it exposes the neighborhood of Elyria-Swansea, which is an environmental justice community located in my Congressional District and sits adjacent to the refinery.

Reducing the environmental harm posed by facilities such as Suncor can be accomplished with a thorough implementation of the EPA’s existing authority under the CAA. Therefore, I respectfully request that your agency take the following actions when reviewing proposed operating permits under Title V of the CAA, including the one recently issued for the Suncor refinery:

1. Audit permit modifications previously deemed as minor: Perform audits to determine whether any modifications deemed at the time as minor should instead be recognized as major modifications under the CAA, and thus subject to more stringent pollution control requirements.
2. Use accurate calculations of the increases in emissions: Use the most accurate possible calculations of the increases in emissions arising from each modification – i.e., no artificial separation of related projects, a proper calculation methodology, and emission factors that account for the higher emissions associated with worn equipment and startup, shutdown and malfunction events.

3. Require relevant areas of the plant to meet the stricter standards required of major modifications: Use the process of renewing facilities' operating permits to require the relevant areas to meet the stricter air pollution standards required of major modifications, if it is found that modifications deemed at the time to be minor should instead be recognized as major.

4. Require use of continuous emissions monitoring systems: Require use of continuous emissions monitoring systems (CEMS) to directly monitor the flow and concentrations of CAA-regulated air pollutants, rather than relying on estimates.

5. Consider whether individual facilities should meet greenhouse gas emissions standards: Consider whether, under CAA Section 111(d), state agencies should be required to establish standards for the emissions of carbon dioxide, methane and other greenhouse gases from individual facilities and include these standards in their operating permits.

Again, I appreciate your leadership in advancing environmental justice across the country, including in Denver, Colorado. I stand ready to work with you on our shared goals of reducing pollution and ensuring that every community in America has clean air, clean water, and healthy neighborhoods where residents can live and thrive.

Please provide a written response to my request and contact Nikki Roy on my staff with any questions. Thank you, in advance, for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, reading "Diana DeGette".

Diana DeGette  
Member of Congress

cc: KC Becker, Regional Administrator, EPA Region 8 Office